

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





75-7029

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

No. 75-7029

LEONARD ANDREWS, et al.

Plaintiffs - Appellants

v.

EDWARD W. MAHER, et al.

Defendants - Appellees

JOINT APPENDIX

FRANCIS J. MacGREGOR  
Assistant Attorney General  
90 Brainard Road  
Hartford, Connecticut 06114  
  
Attorney for Defendants-Appellees

JAMES C. STURDEVANT  
Tolland-Windham Legal  
Assistance Program, Inc.  
35 Village Street  
P. O. Box 358  
Rockville, Connecticut 06066

CHARLES A. PIRRO, III  
Fairfield County Legal Services  
Inc.  
33 South Main Street  
South Norwalk, Connecticut 06854

DAVID B. SPANIER  
Legal Aid Society of Hartford  
County  
525 Main Street  
Hartford, Connecticut 06103

Attorneys for Plaintiffs-  
Appellants

PAGINATION AS IN ORIGINAL COPY



TABLE OF CONTENTS

	Page
1. Relevant Docket Entries .....	1
2. Complaint (June 17, 1974).....	2
3. Motion for a Preliminary Injunction (June 17, 1974).....	28
4. Answer (July 5, 1974).....	29
5. Memorandum of Decision on Plaintiffs' Motion for a Preliminary Injunction (November 19, 1974) ..	31
6. Judgment (November 29, 1974).....	46
7. Transcript of the Hearing on plaintiffs' Motion for a Preliminary Injunction (June 24, 1974).....	47

RELEVANT CIVIL DOCKET ENTRIES

Andrews v. Norton

HONORABLE M. JOSEPH BLUMENFELD

United States District Court

6-17-1974

Complaint, Motion for Preliminary Injunction, Motion to Proceed in Forma Pauperis and Affidavits filed. Motion to Proceed in forma pauperis granted. June 18, 1974, Blumenfeld, J. Order to Show Cause signed. June 18, 1974, Blumenfeld J.

6-24-74

Hearing on Plaintiffs' Order to Show Cause. Decision Reserved.

7-5-74

Answer filed. Motion filed by plaintiffs' counsel to intervene additional parties as plaintiffs.

11-19-74

Memorandum of Decision on Plaintiffs' Motion for a Preliminary Injunction, Blumenfeld, J., 11-20-74, filed Denied. Copies mailed to counsel of record.

11-29-74

Judgment entered. Copies mailed to counsel of record.

12-26-74

Notice of Appeal from Judgment filed. "Permission to proceed appeal in forma pauperis, granted." Blumenfeld, J. Copies of Notice mailed to U.S.C.A. all counsel of record.



IN THE  
UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF CONNECTICUT  
(Title Omitted in Reproduction)

C O M P L A I N T

PRELIMINARY STATEMENT

Plaintiffs and their dependent children are recipients of public assistance from the State of Connecticut under the Aid to Families with Dependent Children (hereinafter "AFDC") flat grant program, who have received written notification from the State of Connecticut Welfare Department that they are required to appear for a personal interview at a local welfare district office for the redetermination of their eligibility for AFDC benefits pursuant to Connecticut State Welfare Department Manual, Vol. I, Index 2200, paras. 4 and 5 p.2. (hereinafter "Manual") (a copy of which is attached as Exhibit A). Plaintiffs and the class they represent are provided no money for transportation for these redetermination interviews, nor are day-care or child-care facilities or payments made available to them for the care of their children while they are required to travel to the local welfare office for the AFDC redetermination interview. Additionally, many individual members of the plaintiff class have no private transportation available to them nor in the areas of Connecticut in which they reside are means of public transportation available to them. Unless plaintiffs appear for these redetermination interviews at the local district office as required by the defendants, their AFDC benefits will be summarily terminated and they and their

families will be subjected to harsh and threatening circumstances that will threaten the well-being of themselves and their children. Plaintiffs, individually and on behalf of all other persons similarly situated, seek to have this Court declare invalid and permanently enjoin the practice and written policy of the defendants which fail to provide transportation, day-care services, reimbursement for public or private transportation expenses, or the establishment of additional district sub-offices of the State Welfare Department to minimize the hardship and burden presently placed upon the plaintiffs in seeking to comply with the redetermination policy of the defendants. Plaintiffs allege that the defendants' policy requiring a face-to-face AFDC redetermination interview without providing travel expenses, day-care expense, or the availability of transportation operates to deprive them of their constitutional rights under the Fourteenth Amendment to the United States Constitution, and the Social Security Act, 42 U.S.C. §602, et seq., and the regulations promulgated thereunder.

#### JURISDICTION

1. Jurisdiction is conferred upon this Court by 28 U.S.C. §1343(3) and (4).
2. Plaintiffs' action for declaratory and injunctive relief is brought pursuant to 42 U.S.C. §1983, 28 U.S.C. §2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

#### CLASS ACTION

3. Plaintiffs LEONARD ANDREWS, MARGARET BARSTIS, BARBARA BRITTO, THELMA DAVIS, ELIZABETH ERVIN, VIVIAN FELTAULT and



JANIE WRIGHT, bring this action on behalf of themselves, their dependent children, and all other persons similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The class is composed of all present and future AFDC recipients in Connecticut who are required to report to State Welfare Department offices for AFDC redetermination interviews pursuant to written departmental policy, Manual Vol 1, Index No. 2200, paras. 4 and 5, p.2, without affording said persons travel, day-care, or automobile expenses to and from said offices. This class is so numerous that joinder of all members is impractical; there are questions of law and fact common to the class; the claims of the representative parties will fairly and adequately protect the interests of the class; and, the defendants, and their agents, and employees have acted and refused to act on grounds generally applicable to the class thereby making appropriate declaratory and injunctive relief with respect to the class as a whole.

#### THREE JUDGE COURT

4. This is a proper case for determination by a three-judge district court pursuant to 28 U.S.C. §§2281 and 2284 since plaintiffs seek a permanent injunction to restrain the defendants, state officials, from the enforcement, operation, and execution of departmental policy, Manual, Vol. I, Index No. 2200, paras. 4 and 5, p. 2, of statewide applicability on the ground that said policy is violative of the Fourteenth Amendment to the United States Constitution.

#### A. PLAINTIFFS

5. All plaintiffs are citizens of the United States,

residents of the State of Connecticut, and AFDC recipients in the State of Connecticut:

- a. Plaintiff LEONARD ANDREWS resides with his five minor children in Willimantic, Connecticut.
- b. Plaintiff MARGARET BARSTIS resides with her one minor child in Enfield, Connecticut.
- c. Plaintiff BARBARA BRITTO resides with her three minor children in Westport, Connecticut.
- d. Plaintiff THELMA DAVIS resides with her four minor children in South Norwalk, Connecticut.
- e. Plaintiff ELIZABETH ERVIN resides with her minor granddaughter in South Norwalk, Connecticut.
- f. Plaintiff VIVIAN FELTAULT resides with her five minor children in Enfield, Connecticut.
- g. Plaintiff JANIE WRIGHT resides with her four minor children in South Norwalk, Connecticut.

B. DEFENDANTS

6. Defendants are both state officials charged with responsibility for the operation of the AFDC program in the State of Connecticut:

- a. Defendant NICHOLAS NORTON, Commissioner of Welfare for the State of Connecticut is sued in both his individual and official capacities. Pursuant to Connecticut General Statutes, §§17-1, 17-2, and 17-3b, he is designated as the individual responsible for adopting and implementing the policy, rules, and regulations of the Connecticut State Welfare Department (hereinafter "Welfare Department") with respect to the AFDC program.



b. Defendant HENRY F. BOYLE, Deputy Commissioner for the Welfare Department, is sued in both his individual and official capacities. Pursuant to Connecticut General Statutes, §17-2, he is designated to assist the Commissioner of the Welfare Department in the promulgation and implementation of the recently published AFDC redetermination policy.

FACTUAL ALLEGATIONS

7. Plaintiff ANDREWS:

a. His family's sole source of support is AFDC assistance in the amount of \$404.40 per month.

b. On May 20, 1974, plaintiff ANDREWS received written notification ordering him to report to the Norwich District Office of the Welfare Department on Jun 4, 1974, for a "redetermination of eligibility" interview for AFDC (a copy of which is attached as Exhibit B). Mr. Andrews does not own an automobile nor is public transportation available to permit him to travel to the Norwich District office which is 18 miles from his residence.

c. By letter dated June 4, 1974, plaintiff ANDREWS received notification from a worker at the local welfare office that his family's AFDC benefits would be discontinued on June 30, 1974, for his failure to appear at the scheduled redetermination interview (a copy is attached as Exhibit C). By letter, dated June 7, 1974, plaintiff ANDREW'S attorneys requested an evidentiary hearing and requested that the same be held in Willimantic, Connecticut, as Mr. Andrews was unable to travel to Norwich (a copy of which is attached as Exhibit D).

d. By letter dated June 14, 1974, from the program supervisor of the division of income maintenance at the Norwich District Office of the Welfare Department to plaintiff ANDREW's attorneys it is stated that his case record "indicates that Mr. Andrews is able to travel to Norwich we feel that he should be able to arrange a ride through his family, friends, or perhaps his church. I hope you will impress upon him that his failure to appear in this office before June 15th, or to contact Ms. Shea for another appointment before that date will result in the discontinuance of his award". ( a copy of said letter is attached as Exhibit E).

8. Plaintiff BARSTIS:

a. Her family's sole source of support is AFDC assistance in the amount of \$209.49 per month.

b. On or about May 18, 1974, plaintiff BARSTIS received written notification ordering her to report to the Hartford District Office of the Welfare Department on June 14, 1974, for a "redetermination of eligibility" interview for AFDC (a copy of which is attached as Exhibit F). Ms. BARSTIS does not own an automobile in which to travel to the Hartford District office which is approximately 20 miles from her residence.

c. Although public bus transportation is available between Enfield and Hartford it is available only early in the morning and late in the afternoon. The Enfield terminal is over one mile from plaintiff BARSTIS' home, and the Hartford terminal is situated such that plaintiff BARSTIS would be required to take a local bus to the Hartford District Office.



Plaintiff BARSTIS' flat grant AFDC award is insufficient to allow her to pay the costs of this transportation.

d. Even if plaintiff BARSTIS were able to travel to Hartford for her redetermination interview she would be forced to take her four-year old daughter out of school for the day since her AFDC flat grant award is insufficient to allow her to pay child-care expenses.

9. Plaintiff BARBARA BRITTO:

a. Her family's sole source of support is AFDC assistance in the amount of \$310.69 per month.

b. On or about May 16, 1974, plaintiff BRITTO received written notification ordering her to report to the Bridgeport District office of the Welfare Department on June 19, 1974, for a "redetermination of eligibility" interview for AFDC (a copy of which is attached as Exhibit G). Ms. BRITTO does not own an automobile in which to travel to the Bridgeport District office which is 10 miles from her residence.

c. Although public transportation is available between Westport and Bridgeport plaintiff BRITTO's AFDC flat grant award is insufficient to allow her to the round trip train fare and the taxi fare from her residence to the train station in Bridgeport to the local welfare office.

d. Even if plaintiff BRITTO could travel to the Bridgeport District office for her redetermination interview, her family's AFDC award is insufficient to enable her to pay the costs of child-care for her youngest children while she is in transit to the Bridgeport District office of the Welfare Department.

10. Plaintiff THELMA DAVIS:

a. Her family's sole source of support is AFDC assistance in the amount of \$404.40 per month.

b. On or about June 3, 1974, plaintiff DAVIS received written notification ordering her to report to the Bridgeport District office of the Welfare Department on July 10, 1974, for a "redetermination of eligibility" interview for AFDC, although she is within walking distance of the South Norwalk District office. Ms. DAVIS does not own an automobile in which to travel to the Bridgeport District office which is approximately 18 miles from her residence.

c. Although public transportation is available between South Norwalk and Bridgeport plaintiff DAVIS' AFDC flat grant award is insufficient to allow her to pay the round trip fare and the taxi fare from her residence to the bus station or train station in Bridgeport to the local welfare office.

d. Even if plaintiff DAVIS could travel to the Bridgeport District office for her redetermination interview, her family's AFDC award is insufficient to enable her to pay the costs of child-care for her younger children while she is in transit to the Bridgeport District office of the Welfare Department.

11. Plaintiff ELIZABETH ERVIN:

a. Her family's sole sources of support are SSI assistance in the amount of \$140.00 per month and a small monthly supplement from the Welfare Department for herself and AFDC assistance in the amount of \$80.56 per month for her granddaughter.

b. Plaintiff ERVIN is 63 years old and suffers from a



continuous heart condition which prevents her from travelling more than a few blocks.

c. On or about May 20, 1974, plaintiff ERVIN received written notification ordering her to report to the Bridgeport District Office of the Welfare Department on June 19, 1974, for a "redetermination of eligibility" interview for AFDC assistance for her granddaughter, although she is within walking distance of the South Norwalk District Office. Ms. ERVIN does not own an automobile and in any event is unable to travel to the Bridgeport District office via public transportation which is approximately 18 miles from her residence because of her heart condition.

d. Wholly apart from her physical disability plaintiff ERVIN's granddaughter's AFDC flat grant award is insufficient to allow her to pay the costs of public transportation to and from the Bridgeport District office.

12. Plaintiff VIVIAN FELTAULT:

a. Her family's sole source of support is AFDC assistance in the amount of \$404.40 per month.

b. On or about May 16, 1974, plaintiff FELTAULT received written notification ordering her to report to the Manchester District office of the Welfare Department on June 19, 1974, for a "redetermination of eligibility" interview for AFDC (a copy of which is attached as Exhibit H). Ms. FELTAULT does not own an automobile in which to travel to the Manchester District office which is 26 miles from her residence.

c. No public transportation is available to permit plaintiff FELTAULT to travel directly to the Manchester District office from her residence in Enfield.

d. The only public transportation available is by bus from Enfield to Hartford and from Hartford to Manchester. This means of transportation is available only early in the morning and late in the afternoon. Plaintiff FELTAULT's AFDC flat grant award is insufficient to allow her to pay the costs of public transportation to and from the Manchester District office.

e. Even if plaintiff FELTAULT could travel to the Manchester District office for her redetermination interview, her family's AFDC award is insufficient to enable her to pay the costs of child-care for her two youngest children who are not in school and for her eldest children who return home from school before she could return home from Manchester.

13. Plaintiff JANIE WRIGHT:

a. Her family's sole source of support is AFDC assistance in the amount of \$356.38 per month.

b. On or about May 20, 1974, plaintiff WRIGHT received written notification ordering her to report to the Bridgeport District office of the Welfare Department on June 19, 1974, for a "redetermination of eligibility" interview for AFDC, although she is within walking distance of the South Norwalk District office. Ms. WRIGHT does not own an automobile in which to travel to the Bridgeport District office which is approximately 18 miles from her residence.

c. Although public transportation is available between South Norwalk and Bridgeport, plaintiff WRIGHT's AFDC flat grant award is insufficient to allow her to pay the round trip fare and the taxi fare from her residence to the bus station or train station in South Norwalk and from the bus station or train



station in Bridgeport to the local welfare office.

d. Even if plaintiff WRIGHT could travel to the Bridgeport District office for her redetermination interview, her family's AFDC award is insufficient to enable her to pay the costs of child-care for her two-month old child while she is in transit to the Bridgeport District office of the Welfare Department.

FIRST COUNT

14. Paragraphs 1 through 13 are hereby incorporated by reference the same as if fully pleaded.

15. By choosing to participate in the AFDC program, the State of Connecticut is obligated by federal law to furnish aid to families with dependent children with reasonable promptness to all eligible individuals.

16. §402 (a)(10) of the Social Security Act, as amended, 42 U.S.C. § 602 (a)(10), requires that "a State plan for aid and services to needy families with children must provide . . . that aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals."

17. § 406 (b)(1) and (2), of the Social Security Act, as amended, 42 U.S.C. § 606 (b)(1) and (2), requires that "aid to families with dependent children means money payments," that they be made to meet the needs of the child and the relative living with him and caring for him, and that they be made directly to "those interested in or concerned with the welfare of such child . . ."

18. In refusing to provide AFDC receipts monetary reimbursement for travel and child-care expenses incurred by them in

complying with the defendants' redetermination policy, the defendants have violated the Social Security Act, 42 U.S.C. § 606 (b) (1) and (2) by placing restrictions upon the use of the assistance grant and thus failing to provide aid to families with dependent children.

19. In conditioning continuing eligibility for AFDC assistance upon arbitrary travel requirements, the defendants have erected barriers to otherwise eligible recipients, thereby breaching the federally imposed obligation to provide such aid to "all eligible individuals" under § 402 (a) (10) of the Social Security Act, 42 U.S.C. § 602 (a) (10).

20. The defendants in conditioning eligibility for AFDC benefits on those recipients seeking continuing eligibility in such a way as to place restrictions on their use of these grants (burdensome travel requirements), have failed to provide aid to families with dependent children in violation of § 406 (b) (1) and (2) of the Social Security Act, 42 U.S.C. § 606 (b) (1) and (2).

21. By failing to devise and implement an AFDC redetermination system that provides easy access to the recipients and relieves them of additional financial burdens the defendants have denied and continue to deny plaintiffs and members of the class they represent their rights under the Social Security Act and therefore are in violation of the Supremacy Clause of the United States Constitution.

22. Plaintiffs and members of the class they represent have no adequate remedy at law, and have suffered and will continue to suffer irreparable injury as a result of defendants' action complained of herein.



SECOND COUNT

23. Paragraphs 1 through 19 are hereby incorporated by reference the same as if fully pleaded.

24. Pursuant to § 402 (a)(1) of the Social Security Act, 42 U.S.C. § 602 (a)(1), a "State plan for aid and services to needy families with children must (1) provide that it shall be in effect in all political subdivisions of the State."

25. The defendants' refusal to provide transportation, child-care services, or monetary reimbursement for these expenses to plaintiffs and the members of the class they represent severely restricts the ability of AFDC recipients to participate in "face-to-face" redetermination interviews. By requiring plaintiffs and the members of the class they represent to travel long distances as a condition of eligibility for essential services that they are desperately in need of, the defendants' redetermination policy violates § 402 (a)(1) of the Social Security Act, 42 U.S.C § 602 (a)(1), in that the state plan for "aid and services to needy families with children" is not administered so as to be "in effect in all political subdivisions of the State."

26. Defendants policy which fails to provide AFDC recipients access to redetermination centers throughout the state violates H.E.W. regulation 45 C.F.R. § 205.120 (a) which requires that:

A State plan under Title I, IVA, X, XIV, XVI, or XIX of the Social Security Act must provide that it shall be in operation, through a system of local offices, on a statewide basis in accordance with equitable standards for assistance and administration.

27. Defendants' policy of failing to provide AFDC recipients

access to redetermination centers throughout the state violates H.E.W. regulation 45 C.F.R. § 205.130 (b) which requires that:

State and federal funds will be apportioned among the political subdivisions of the state on a basis consistent with equitable treatment of individuals in similar circumstances throughout the state.

28. Redetermination centers easily accessible to AFDC recipients in some of the larger cities in the State of Connecticut must also be provided for those recipients in other areas of the state without the additional financial and transportation burdens that the present policy of the defendants now imposes.

29. By failing to devise and implement an AFDC redetermination system that provides easy access to all AFDC recipients throughout the state, the defendants have denied and continue to deny plaintiffs and the members of the class they represent their rights under the Social Security Act and regulations promulgated thereunder, and therefore are in violation of the Supremacy Clause of the United States Constitution.

30. Plaintiffs and members of the class they represent have no adequate remedy at law, and have suffered and will continue to suffer irreparable injury as a result of defendants' action complained of herein.

### THIRD COUNT

31. Paragraphs 1 through 19 are hereby incorporated by reference the same as if fully pleaded.

32. In refusing to eliminate travel hardships, child-care costs, and prohibitive transportation expenses by allocating redetermination centers fairly and equitably throughout the State of Connecticut, the defendants have arbitrarily discriminated



against the plaintiffs and the members of the class they represent by depriving them of their rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

33. The defendants have elected to arbitrarily impose travel and child-care hardships upon a district segment of the AFDC population in this state without rational cause or justification. The defendants have impaired the access of a particular class of AFDC recipients to needed services because of the travel requirements imposed upon them.

34. By arbitrarily allocating redetermination centers throughout the State of Connecticut, the defendants have caused the plaintiffs and the members of the class they represent irreparable harm in isolating them from continued access to eligibility for AFDC assistance without rational cause or justification.

35. Plaintiffs and members of the class they represent have no adequate remedy at law, and have suffered and will continue to suffer irreparable injury as a result of the defendants' actions complained of herein.

#### FOURTH COUNT

36. Paragraphs 1 through 19 are hereby incorporated by reference the same as if fully pleaded.

37. In refusing to eliminate travel hardships, child-care costs, and prohibitive transportation expenses by allocating redetermination centers fairly and equitably throughout the State of Connecticut and by proposing to discontinue AFDC assistance to all AFDC recipients who fail to appear for their

"face-to-face" redetermination interviews, the defendants have denied the plaintiffs and the members of the class they represent their rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution by failing to provide them a constitutionally sufficient hearing prior to the termination of eligibility for AFDC assistance.

38. The defendants' policy, Manual, Vol. I, Index 2200, paras. 4 and 5, p. 2, on its face and as applied violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution in that said policy creates a permanent, irrebutable presumption that the AFDC flat grant awards of the plaintiffs and the members of the class they represent are sufficient to allow them to pay the transportation and child-care expenses necessarily incurred by them in complying with the defendants' "redetermination of eligibility" policy.

39. Plaintiffs and members of the class they represent have no adequate remedy at law, and have suffered and will continue to suffer irreparable injury as a result of the defendants' actions complained of herein.

#### PRAYER FOR RELIEF

WHEREFORE, plaintiffs on behalf of themselves and all others similarly situated respectfully pray that this Court:

1. Assume jurisdiction of this case, convene a three-judge district court pursuant to 28 U.S.C. §§2281 and 2284 to determine this controversy, and set this case down for a prompt hearing.
2. Determine by order, pursuant to Rule 23 (a), (b) (2) of the Federal Rules of Civil Procedure, that this action be maintained



as a class action.

3. Pending a hearing and determination by the three-judge court, issue a temporary restraining order pursuant to 28 U.S.C. §2284(3) restraining defendants, their successors in office, agents and employees, and all other persons in active concert and participation with them, from continuing to cause irreparable harm to plaintiffs and other persons similarly situated by terminating their AFDC benefits to which they are entitled and that would otherwise be available to them were it not for the defendants' illegal implementation of State Welfare Department policy, Manual Vol. I, Index 2200, paras. 4 and 5, p. 2 under which defendants assume ineligibility of the plaintiffs if they do not have a redetermination interview at the District office.

4. Issue a final judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rules 54, 57, and 58 of the Federal Rules of Civil Procedure declaring that State Welfare Department policy Manual Vol. I, Index 2200, paras. 4 and 5, p. 2 is invalid on its face and as applied on the grounds that it is violative of provisions contained in the Social Security Act, the federal regulations promulgated thereunder, and the Fourteenth Amendment to the Constitution of the United States.

5. Issue preliminary and permanent injunctions, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining defendants, their successors in office, agents and employees, and all other persons in active concert and participation with them from refusing to continue to plaintiffs and all other persons similarly situated their AFDC benefits in the amounts to which they are entitled on the basis of State Welfare Department regulations, Manual Vol. I, Index 2200, paras. 4 and 5, p. 2 and

policies under which defendants assume the ineligibility of plaintiffs if they do not have a face to face redetermination interview at a welfare department district office.

6. Allow plaintiff their costs herein and reasonable attorneys fees and such additional or alternative relief, including payment of all monies wrongfully withheld, as may seem to this Court to be just, proper and equitable.

(Signatures of Counsel Omitted in Reproduction)



Connecticut State Welfare Department  
Social Service Policies - Public Assistance

55

THE APPLICATION PROCESS

---

Application, Determination of Eligibility, and Furnishing Assistance 2200 - page 2

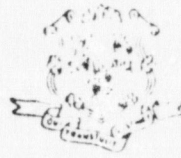
---

State Requirements (contd)

4. Eligibility for continuing assistance is redetermined:
  - a. Periodically, but no less frequently in AFDC than 90 days after the effective date of award and every six months thereafter; and twelve months in the other categories.
  - b. At any time when a change of circumstances has occurred.
  - c. Promptly, but not in excess of thirty days after the Department obtains information that indicates that changes in a recipient's circumstances may affect his eligibility or the amount of assistance.
5. In determining initial and continuing eligibility:
  - a. For AFDC, a personal interview is required with applicants and recipients.
  - b. Verification is required of all factors pertaining to eligibility - technical and financial. Failure to provide verification of information essential to the determination or redetermination of eligibility for assistance has been authorized in a stated amount or that it has been denied or terminated.
6. Recipients are required to report to the Department, in writing, within 15 days any change in the information which has been provided on an application or redetermination of eligibility form.
  - a. Failure to report changes within the specified time period may result in the Department's taking legal action against a recipient.
  - b. The Department must complete action to effect necessary changes no later than 30 days after receiving notification of a change in circumstances.
7. The Department establishes and maintains methods by which it is kept currently informed about District Offices' adherence to the State Plan provisions and to the procedural requirements for determining eligibility, and takes corrective action when necessary.

EXHIBIT A

NOTICE OF REDETERMINATION OF ELIGIBILITY - AFDC  
AVISO PARA REDETERMINACION DE ELEGIBILIDAD - AFDC  
W-1230 1-74



Connecticut State Welfare Department  
Departamento De Bienestar Público De Connecticut

Date of notice  
Dia de la notificación

10/11/74

Your continuing eligibility for AFDC, and Food Stamps if applicable, must be redetermined at this time. If you wish to continue receiving Public Assistance, please come in for a personal interview at the time and place shown below. If you fail to keep your scheduled appointment, we will assume you no longer need assistance and the Department will start action to discontinue your case.

La continuación de su elegibilidad para la Ayuda por el Programa AFDC, los cupones para alimento si son aplicables, debe ser redeterminada. Si usted desea continuar recibiendo Asistencia Pública, por favor venga a una entrevista personal a la hora y sitio mostrados abajo. Si usted pierde la cita separada para usted anticipadamente, asumiremos que usted no necesita más ayuda, y el Departamento comenzará la acción para discontinuar su caso.

YOU MUST bring this notice and the completed Redetermination form with you.  
USTED TIENE QUE traer este aviso y la forma de Redeterminación con usted.

LEONARD ANDREWS  
321 JEFFREY RD APT D  
WILLIMANTIC CT 06226

048502

(Read instructions on back)

TIME AND LOCATION OF YOUR APPOINTMENT  
HORA Y SITIO DE SU CITA

Month/Mes	Day/Día	Time/Hora
JUNE	04	01:00
JUNE	04	01:00

279 MAIN ST.  
NORWICH, CT 06460

(See the instructions on other side)

INSTRUCTIONS:

- The redetermination requirement can be met only by a face-to-face interview.
- You may call the District Office to have your interview rescheduled if:
  - You are in the hospital.
  - You are ill. (You must bring a doctor's statement to your rescheduled interview.)
  - You are employed and your employer refuses to give you the time off.
- To prepare for the interview:
  - Carefully read the enclosed 'Verification Guide' to find out what information you must bring to the interview.
  - Complete all items on the enclosed Redetermination of Eligibility Form. If the answer is No, write or check No. If the answer is yes, give details.
  - YOU MUST BRING THIS NOTICE AND THE COMPLETED REDETERMINATION FORM WITH YOU.
- Please be on time. If you are late, you will have to wait to be interviewed.

INSTRUCCIONES:

- La Redeterminación requiere que sea hecha solamente por una entrevista personal (frente/frente).
- Usted puede llamar a la Oficina de Distrito para otra cita solamente si:
  - Si usted está en el Hospital.
  - Si usted está enfermo tiene que traer una excusa de su tiempo que usted venga a la nueva cita separada para usted.
  - Si usted esta empleado y el patrono rehusa darle el tiempo para asistir a la cita.
- Preparación para la entrevista:
  - Lea cuidadosamente la "Guía de Verificación" incluida para saber que clase de información tiene usted que traer a la entrevista.
  - Complete la "Forma Redeterminación para Elegibilidad de Asistencia". Si la contestación es "No" escriba o marque "No". Si la contestación es "Si", detalle.
  - USTED TIENE QUE TRAER ESTE AVISO Y LA FORMA DE REDETERMINACION CON USTED.
- Favor de venir a tiempo. Pues si usted llega tarde, tendrá que esperar para ser entrevistado.



W-848  
(rev. 3/74)

CONNECTICUT STATE WELFARE DEPARTMENT

NOTICE OF PROPOSED SUSPENSION, REDUCTION OR DISCONTINUANCE OF PUBLIC ASSISTANCE

Case No. 163-C-0485-2

Date Sent by Worker June 4, 1974

Name Leonard Andrews

Address 321 Jeffrey Road, Apt. D, Willimantic, Conn.

Dear Mr. Andrews:

This is to notify you that the State Welfare Department is proposing, to:

☐ SUSPEND \_\_\_\_\_  
Effective Date

☐ REDUCE From \_\_\_\_\_ to \_\_\_\_\_ Effective Date \_\_\_\_\_

☒ DISCONTINUE June 30, 1974  
Effective Date

your assistance because you failed to appear for your redetermination of eligibility  
for ADC

Policy Reference Manual Volume I 2200 page 2

If you disagree with the proposal, you may request an Evidentiary Hearing to be held  
at the State Welfare Department Office at 279 Main St., Norwich, Conn. 06240  
Address

Your request for an Evidentiary Hearing must be made in writing to the District  
Office no later than June 16, 1974  
Date

If you are aggrieved because the Department proposes to suspend, reduce, or dis-  
continue your grant or your grant was incorrectly computed, and you request an  
Evidentiary Hearing by the above date, your assistance will continue to the end of  
the assistance payment period in which the final decision on the Evidentiary Hear-  
ing is rendered.

If we do not hear from you by June 16, 1974 your assistance will  
automatically be discontinued.

We are enclosing a Form for you to complete if you decide you would like an  
Evidentiary Hearing. A self-addressed envelope is also enclosed.

You have a right to bring with you witnesses and any documentary evidence to sup-  
port your claim. You may speak for yourself or you may be accompanied by legal  
counsel or a friend or other spokesman at the Evidentiary Hearing. Your request  
for an Evidentiary Hearing does not in any way diminish your right to a Fair Hearing.

You can still request a Fair Hearing if your request is mailed within 30 days from  
the date you receive official notice of action taken regarding your assistance.

Requests for a Fair Hearing must be made in writing, and addressed to the State  
Welfare Department, Main Street Extension, Middletown, Connecticut 06457.

Sincerely,

EXHIBIT C

Willimantic Office

June 7, 1974

District Office  
Connecticut State Welfare Department  
279 Main Street  
Norwich, Connecticut 06360

Dear Sir/Madam:

The purpose of this letter is to request an evidentiary hearing on behalf of Leonard Andrews, 321 Jeffrey Road, Apartment D, Willimantic, Connecticut. Mr. Andrew's case number is 163-C-048502.

Mr. Andrews has received a notification dated June 4th, 1974 to the effect that he and his children will be discontinued from AFDC benefits effective June 30th, 1974 because he failed to appear for his "redetermination of eligibility for ADC". As you may be aware, there is no public transportation between Willimantic and Norwich. Additionally, Mr. Andrews does not possess private means of transportation and thus was unable to attend the interview for the redetermination of his family's eligibility for AFDC. For the same reasons that Mr. Andrews was unable to attend the recertification interview in Norwich, he is also unable to attend an evidentiary hearing in Norwich. Consequently, he is requesting an evidentiary hearing, or a fair hearing, to be held in Willimantic, Connecticut.

Thank you for your time and consideration.

Very truly yours,

Douglas M. Crockett

cc: Mrs. Elaine Shae



Department

100 Main Street • Norwich, Conn. 06226 • (203) 889-2351

June 14, 1974

Attorney Douglas M. Crockett  
Tolland-Windham Legal Assistance, Inc.  
Post Office Box D  
Willimantic, Connecticut 06226

RECEIVED  
TOLLAND-WINDHAM  
LEGAL ASSISTANCE, INC.

JUN 14 1974

WILLIMANTIC OFFICE

Re: Leonard Andrews  
163-C-048502

Dear Mr. Crockett:

I am forwarding your letter of June 7 to our Fair Hearing Section to serve as a formal request for a fair hearing for Mr. Andrews.

Our record indicates Mr. Andrews is able to travel to Norwich. We feel that he should be able to arrange a ride through his family, friends, or perhaps his church. I hope you will impress upon him that his failure to appear in this office before June 15, or to contact Mrs. Shea for another appointment before that date will result in the discontinuance of his award.

Sincerely yours,

*Emily-Mae Howard*

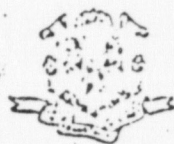
(Miss) Emily-Mae Howard, Program Supervisor  
Division of Income Maintenance

EMH/dg

cc: Leonard Andrews

EXHIBIT E

OF REDETERMINATION OF ELIGIBILITY - AFDC  
PARA REDETERMINACIÓN DE ELEGIBILIDAD - AFDC  
1-74



Connecticut State Welfare Department  
Departamento De Bienestar Público De Connecticut

Date of notice  
Día de la notificación

05/16/74

Continuing eligibility for AFDC, and Food Stamps if applicable, must be determined at this time. If you wish to continue receiving Public Assistance, come in for a personal interview at the time and place shown below. If you fail to keep your scheduled appointment, we will assume you no longer need aid and the Department will start action to discontinue your case.

La continuación de su elegibilidad para la Ayuda bajo el Programa AFDC, y los cupones para alimento si son aplicables, tiene que ser re-determinada. Si usted desea continuar recibiendo Asistencia Pública, favor de venir para una entrevista personal a la hora y sitio señalados abajo. Si usted pierde esta cita separada para usted anticipadamente, asumiremos que usted no necesita más ayuda, y el Departamento comenzará la acción para discontinuar su caso.

PLEASE bring this notice and the completed Redetermination form with you.  
TIENE QUE traer este aviso y la forma de Redeterminación con usted.

MARGARET BARSTIS  
58 PLEASANT STREET  
ENFIELD CT 06082

816813

(Read instructions on back)

TIME AND LOCATION OF YOUR APPOINTMENT  
HORA Y SITIO DE SU CITA

Month/Mes	Day/Día	Time/Hora
JUNE	14	11:00
JUNIO	14	11:00

2550 MAIN ST.  
HARTFORD, CONN.

(See the instructions on the back)

INSTRUCTIONS:

INSTRUCCIONES:

A. The redetermination requirement can be met only by a face-to-face interview.

B. You may call the District Office to have your interview rescheduled if:

1. You are in the hospital.
2. You are ill. (You must bring a doctor's statement to your rescheduled interview.)
3. You are employed and your employer refuses to give you the time off.

C. To prepare for the interview:

1. Carefully read the enclosed 'Verification Guide' to find out what information you must bring to the interview.
2. Complete all items on the enclosed Redetermination of Eligibility Form. If the answer is No, write or check No. If the answer is yes, give details.
3. YOU MUST BRING THIS NOTICE AND THE COMPLETED REDETERMINATION FORM WITH YOU.

D. Please be on time. If you are late, you will have to wait to be interviewed.

A. La Redeterminación requiere que sea hecha solamente por entrevista personal (frente/frente).

B. Usted puede llamar a la Oficina de Distrito para otra cita solamente si:

1. Si usted está en el Hospital.
2. Si usted está enfermo tiene que traer una excusa de su Doctor a tiempo que usted venga a la nueva cita separada para usted.
3. Si usted está empleado y el patrono rehúsa darle el tiempo para asistir a la cita.

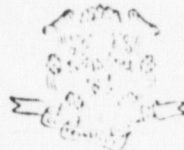
C. Preparación para la entrevista:

1. Lea cuidadosamente la "Guía de Verificación" incluida para que sepa que clase de información tiene usted que traer para la entrevista.
2. Complete la "Forma Redeterminación para Elegibilidad". Si la contestación es "No" escriba o marque "No". Si la contestación es "si", detalle.
3. USTED TIENE QUE TRAER ESTE AVISO Y LA FORMA DE REDETERMINACIÓN CON USTED.

D. Favor de venir a tiempo. Pues si usted llega tarde, tendrá que esperar para ser entrevistado.



OFFICE OF REDETERMINATION OF ELIGIBILITY - AFDC  
OFICINA DE REDETERMINACIÓN DE ELEGIBILIDAD - AFDC



Connecticut State Welfare Department  
Departamento De Bienestar Social De Connecticut

Date of notice  
Día de la notificación

05/14/74

Notice of eligibility for AFDC, and Food Stamps if applicable, must be given to you at the time of your interview. If you wish to continue receiving Public Assistance, you must appear for a personal interview at the time and place shown below. If you fail to appear for a scheduled appointment, we will assume you no longer need public assistance and the Department will start action to discontinue your case.

La continuación de su elegibilidad para la Ayuda Federal por Alimentos y los cupones para alimento si son aplicables, debe ser determinada en una entrevista personal. Si usted desea continuar recibiendo Asistencia Pública, debe comparecer a una entrevista personal a la hora y en el lugar señalado abajo. Si usted no comparece a una entrevista personal a la hora y en el lugar señalado, asumiremos que usted no necesita más ayuda, y el Departamento comenzará la acción para discontinuar su caso.

When receiving this notice and the completed Redetermination form with you.  
Al recibir este aviso y la forma de Redeterminación con usted.

BARBARA BRITTO  
45 HALE COURT  
WESTPORT CT

895328

(Read instructions on back)

TIME AND LOCATION OF YOUR APPOINTMENT HORA Y LUGAR DE SU CITA		
Month/Mes	Day/Día	Time/Hora
JUNE	12	10:00 AM
JULY	12	10:00 AM

434 STATE ST.  
BRIDGEPORT, CONN.

(Lea las instrucciones en otro lado)

INSTRUCTIONS:

- The redetermination requirement can be met only by a face-to-face interview.
- You may call the District Office to have your interview rescheduled if:
  - You are in the hospital.
  - You are ill. (You must bring a doctor's statement to your rescheduled interview.)
  - You are employed and your employer refuses to give you the time off.
- To prepare for the interview:
  - Carefully read the enclosed 'Verification Guide' to find out what information you must bring to the interview.
  - Complete all items on the enclosed Redetermination of Eligibility Form. If the answer is No, write or check No. If the answer is yes, give details.
  - YOU MUST BRING THIS NOTICE AND THE COMPLETED REDETERMINATION FORM WITH YOU.
- Please be on time. If you are late, you will have to wait to be interviewed.

INSTRUCCIONES:

- La Redeterminación requiere que sea hecha solamente por entrevista personal (frente/frente).
- Usted puede llamar a la Oficina de Distrito para otra cita solamente si:
  - Si usted está en el Hospital
  - Si usted está enfermo tiene que traer una excusa de su médico a la nueva cita separada para usted.
  - Si usted está empleado y el patrono rehusa darle el tiempo para asistir a la cita.
- Preparación para la entrevista:
  - Lea cuidadosamente la "Guía de Verificación" incluida. Sepa que clase de información tiene usted que traer a la entrevista.
  - Complete la "Forma Redeterminación de Elegibilidad". Si la contestación es "No" escriba o marque "No". Si la contestación es "Sí", detalle.
  - USTED TIENE QUE TRAER ESTE AVISO Y LA FORMA DE REDETERMINACIÓN CON USTED.
- Favor de venir a tiempo. Pues si usted llega tarde tendrá que esperar para ser entrevistado.

EXHIBIT G.

NOTICE OF REDETERMINATION OF ELIGIBILITY - AFDC  
NOTICIA PARA REDETERMINACIÓN DE ELEGIBILIDAD - AFDC  
10-1-74



Connecticut State Welfare Department  
Departamento De Bienestar Público De Connecticut

Date of notice  
Día de la noticia

05/16/74

Continuing eligibility for AFDC, and Food Stamps if applicable, must be determined at this time. If you wish to continue receiving Public Assistance, please come in for a personal interview at the time and place shown below. If you fail to keep your scheduled appointment, we will assume you no longer need assistance and the Department will start action to discontinue your case.

La continuación de su elegibilidad para la Ayuda bajo el Programa AFDC, y los cupones para alimento si son aplicables, tiene que ser redeterminada. Si usted desea continuar recibiendo Asistencia Pública, favor de venir para una entrevista personal a la hora y sitio señalados abajo. Si usted pierde esta cita separada para usted anticipadamente, asumiremos que usted no necesita más ayuda, y el Departamento comenzará la acción para discontinuar su caso.

- MUST bring this notice and the completed Redetermination form with you.  
TIENE QUE traer este aviso y la forma de Redeterminación con usted.

VIVIAN FELTAULT  
7 OAK AVE  
ENFIELD CT 06082

903716

(Read instructions on back)

TIME AND LOCATION OF YOUR APPOINTMENT  
HORA Y SITIO DE SU CITA

Month/Mes	Day/Día	Time/Hora
JUNE	19	02.00
JUNIO	19	02.00

364 N. MIDDLE TPK.  
MANCHESTER, CONN.

(Lea las instrucciones en otro lado)

INSTRUCCIONES:

INSTRUCCIONES:

- A. The redetermination requirement can be met only by a face-to-face interview.
- B. You may call the District Office to have your interview rescheduled if:
1. You are in the hospital.
  2. You are ill. (You must bring a doctor's statement to your rescheduled interview.)
  3. You are employed and your employer refuses to give you the time off.
- C. To prepare for the interview:
1. Carefully read the enclosed 'Verification Guide' to find out what information you must bring to the interview.
  2. Complete all items on the enclosed Redetermination of Eligibility Form. If the answer is No, write or check No. If the answer is yes, give details.
  3. YOU MUST BRING THIS NOTICE AND THE COMPLETED REDETERMINATION FORM WITH YOU.
- D. Please be on time. If you are late, you will have to wait to be interviewed.

- A. La Redeterminación requiere que sea hecha solamente por entrevista personal (frente/frente).
- B. Usted puede llamar a la Oficina de Distrito para otra cita solamente si:
1. Si usted está en el Hospital.
  2. Si usted está enfermo tiene que traer una excusa de su Doctor a tiempo que usted venga a la nueva cita separada para usted.
  3. Si usted está empleado y el patrono rehusa darle el tiempo para asistir a la cita.
- C. Preparación para la entrevista:
1. Lea cuidadosamente la "Guía de Verificación" incluida para que sepa que clase de información tiene usted que traer para la entrevista.
  2. Complete la "Forma Redeterminación para Elegibilidad". Si la contestación es "No" escriba o marque "No". Si la contestación es "si", detalle.
  3. USTED TIENE QUE TRAER ESTE AVISO Y LA FORMA DE REDETERMINACIÓN CON USTED.
- D. Favor de venir a tiempo. Pues si usted llega tarde, tendrá que esperar para ser entrevistado.



IN THE

UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF CONNECTICUT

(Title Omitted in Reproduction)

MOTION FOR PRELIMINARY INJUNCTION

The plaintiffs, hereby moves that a preliminary injunction issue in this matter against defendants, to enjoin them from terminating plaintiffs AFDC benefits when plaintiffs are unable to visit the welfare district office for their eligibility redetermination because of travel hardships.

(Signature of Counsel Omitted in Reproduction)

IN THE  
UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF CONNECTICUT  
(Title Omitted in Reproduction)

ANSWER  
FIRST DEFENSE

1. Paragraphs 5, 6, 7a, 7c, 7d, 8a, 8b, 9a, 9b, 10a, 10b, 11a, 12a, 13a, 15, 16, 17 and 24 are admitted.

2. Paragraphs 1, 2, 4, 7b, 8c, 9c, 10c, 11d, 12d, 13c, 18, 19, 20, 21, 25, 26, 27, 28, 29, 32, 33, 34, 37, and 38 are denied.

3. As to paragraphs 3, 8d, 9d, 10d, 11b, 11c, 12b, 12c, 12e, 13b, 13d, 22, 30, 35 and 39, the defendants state they have insufficient knowledge on which to form an opinion and they therefore are denied and leave the plaintiffs to their proof.

4. The defendants answer paragraphs 14, 23, 31 and 36 in the same manner in which they answered the paragraphs incorporated into paragraphs 14, 23, 31 and 36.

SECOND DEFENSE

This Court has no jurisdiction to enter money damages, attorneys' fees or direct any payment of money to the plaintiffs as reimbursement for travel or baby sitting because the defendants as public officials have not consented to the suit and the Eleventh Amendment bars such actions.

THIRD DEFENSE

The defendants, as public officials, have a right to fix



the level of benefit payments which the recipients receive and failure to add monies to the recipients checks for out-of-pocket expenses, if any, for a face-to-face redetermination of eligibility interview is not a violation of any Federal statute. HEW regulation or Fourteenth Amendment right.

(Signature of Counsel and Certification Omitted in Reproduction)

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

LEONARD ANDREWS, ET AL :  
v. : CIVIL NO. H-74-190  
NICHOLAS NORTON, Individually :  
and in his Official capacity :  
as Commissioner of the State :  
of Connecticut Welfare :  
Department, ET AL :

MEMORANDUM OF DECISION ON PLAINTIFFS'  
MOTION FOR A PRELIMINARY INJUNCTION

This is an action to enjoin the defendants, state welfare officials, from continuing to require welfare recipients to report to State Welfare Department offices for periodic AFDC redetermination interviews without reimbursing them for travel, day-care, or other expenses involved in making the required journey. The plaintiffs seek certification of a class, the convening of a three-judge court and a preliminary injunction pending final adjudication of the case on its merits.

FACTS

At issue in this action is an emergency welfare regulation, § 17-2-31 (1974) which has been in effect since May 28, 1974<sup>1/</sup> (published at 36 Conn.L.J., Oct.22, 1974 at 19).

<sup>1/</sup> Conn. Gen. Stat. Ann. § 4-168 (Supp.1974) establishes the procedure by which agency regulations are adopted in Connecticut. Under subsection (a) the agency must publish a notice in the Connecticut Law Journal of its intent to adopt a regulation at least 20 days in advance of the intended action. This provides the public with an opportunity to respond to the proposal. In addition no regulation may be adopted until approved by the Attorney General and a standing regulation review committee of



The regulation provides that the "AFDC personal interview provided for . . . redetermination of eligibility, is a face-to face interview in the district office of the department." Under emergency § 17-2-29 such interviews are to take place "[n]o less frequently than ninety (90) days after the effective date of award and every six (6) months thereafter . . . ." There are only a limited number of district offices in the state at which such interviews are conducted<sup>2/</sup> with the attendant result that some welfare recipients must travel further distances at greater expense and inconvenience than others. In addition, plaintiffs allege that persons who live at a greater distance are more likely to incur baby-sitting or day-care expenses during the period when they are traveling to and from welfare offices. Welfare recipients are not reimbursed for these expenses.

At the time of recertification the recipients are notified by mail of the date and location of their interview. Emergency

1/ cont'd

the legislature. Subsection (b) provides a procedure by which a regulation may be adopted on an emergency basis for a period of not more than 180 days pending the outcome of the subsection (a) procedure. Under subsection (b) the emergency provision is available whenever an agency "finds that an imminent peril to the public health, safety, or welfare requires adoption . . ." In the case of the regulations involved in this action, the Department of Welfare has made such a determination and thus is currently operating under the provisions of emergency regulations.

2/

The locations of these offices are Hartford, Manchester, New Haven, Bridgeport, Norwich, Waterbury, Middletown, Stamford, Danbury, Torrington, Bristol, New Britain and Meriden.

regulation § 17-2-31(a) governs the issue of notice and the allowable excuses for failure to attend the interview:

"The supervising relative shall receive adequate notice of date, time and location of the interview. He shall complete and bring with him to the interview forms sent to him and documents needed for verification. No appointment will be rescheduled unless the supervising relative, as verified by a doctor's statement, is so ill as to be hospitalized or otherwise incapacitated; or if the supervising relative is employed and the employer refuses to give time off."

Should a recipient fail to keep a scheduled interview appointment, that situation is governed by § 17-2-31(2):

"A supervising relative failing to keep the scheduled appointment will be sent appropriate notice of proposed discontinuance, including the right to request an evidentiary hearing within the next ten (10) days from the date of mailing the notice. If such supervising relative voluntarily appears for an interview thereafter, his redetermination process will be initiated. A rescheduled date may also be granted. Failure by the supervising relative to keep this appointment will result in discontinuance. If the supervising relative shows for the appointment but does not have all verified information, he will be given another notice of proposed discontinuance. A rescheduled date within ten (10) days will be given; failure to furnish all necessary verification at the next appointment will result in discontinuance."

The named plaintiffs are all individuals who live a considerable distance but less than 25 miles<sup>3/</sup> outside of the cities in which their recertifications were to take place. It is unnecessary at this juncture to set out in detail the specifics of each of their cases. However, some discussion

---

<sup>3/</sup>  
See note 7, infra.



is necessary to indicate the dimensions of the discrimination complained of.

Leonard Andrews receives \$64.00 per month of AFDC benefits. He lives two miles outside of Willimantic and was ordered by the Welfare Department to report to the Norwich welfare office for his redetermination interview. It was established at the hearing that Willimantic is 18 miles from Norwich. At the time of the hearing on this motion in June 1974, there was only one bus a week running between Willimantic and Norwich. The cost of a round trip ticket on that bus was \$2.60. Mr. Andrews was able to arrange for his interview to take place on the day of the week on which the bus ran, but stated that he was unable to afford the cost of the ticket. It was also established that beginning July 1, there would be daily buses operating between those two towns. Mr. Andrews also complained that he would have to incur the expense of providing a baby sitter for his five- and six-year-old children while he traveled to Norwich. However, upon further examination he testified that he had several older children who would be available to take care of their younger brothers and sisters.

Plaintiff Vivian Feltault resides in Enfield and was ordered to attend a recertification interview in Manchester. She had several young children and would apparently not be able to leave them alone, but rather would have to bring them to the interview or obtain the services of a baby sitter. There is no direct bus line between Enfield and Manchester; travel between these points involves changing buses at Hartford. The total distance of this route is approximately 52 miles round trip. Because of the difficulty of making bus connections,

it is apparent that Mrs. Feltault would have to devote the better part of a day in traveling to and from the site of the interview. However, in cross-examination she did concede that her children could ride free on the buses and she would thus be willing to take them with her to Manchester.

The other named plaintiffs did not testify at the hearing, but their situations, as set out in the complaint, are basically variations on those of plaintiffs Andrews and Feltault. In no case does the trip required of the plaintiffs exceed that involved in Mrs. Feltault's case. A number of the plaintiffs are residents of South Norwalk and are required to travel to Bridgeport for their interviews, a total round trip distance of 36 miles. At the hearing it was established that there is hourly bus transportation between these two cities at a round trip cost of \$3.10.<sup>4/</sup>

The plaintiffs in their complaint seek certification of a class for the purposes of maintaining this as a class action pursuant to Fed.R.Civ.P. 23(a) and (b)(2). The proposed class is defined as "all present and future AFDC recipients in Connecticut who are required to report to State Welfare Department Offices for AFDC redetermination interviews pursuant to written

---

<sup>4/</sup> After the hearing on the preliminary injunction, a number of motions to intervene were filed. None of the proposed intervenors present factual or legal issues different from those of the named plaintiffs. Acting under the discretion afforded it by Fed.R.Civ.P. 24(b), this Court denies the various motions to intervene.



departmental policy, Manual Vol. I, Index No. 2200, paras. 4 and 5, p.2 <sup>5/</sup> without affording said persons travel, day-care, or automobile expenses to and from said offices." (Plaintiffs' complaint ¶3). As all of the prerequisites for class certification are present, this will be treated as a class action.

#### JURISDICTION

Plaintiffs seek to ground jurisdiction of this action on 28 U.S.C. § 1343(3).<sup>6/</sup> They have presented for the Court's consideration a number of constitutional challenges to the Welfare Department's interview policy. Basically, they contend that the interview requirement invidiously discriminates against that class of persons who must incur expenditures for travel to the welfare offices for the redetermination interviews. Secondly, they challenge the practice on the basis that the state has made a conclusive presumption that welfare

---

<sup>5/</sup> The plaintiffs were evidently unaware of the emergency regulations discussed above.

<sup>6/</sup> 28 U.S.C. § 1343(3) provides:

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person . . . .

"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States . . . ."

recipients receive enough welfare assistance to allow them to pay these added expenditures. Thirdly, they challenge the evidentiary hearing procedure which precedes the termination of welfare payments in this class of cases. They argue that such a hearing does not satisfy the requirements of due process as set out in Goldberg v. Kelly, 397 U.S. 254 (1970) because affected individuals are required to attend these hearings at the locations where the interviews themselves are scheduled to take place. It is not due process, they argue, to hold a hearing at a location which a person cannot, or can only with great difficulty, reach when the very reason why relief is to be terminated is his inability to attend an interview at that location.

In Hagans v. Lavine, 415 U.S. 528 (1974) the Supreme Court established the very minimal standards of merit which must be satisfied before a District Court may assume jurisdiction of a claim under 28 U.S.C. § 1343(3). Quoting from Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 666-667 (1974), the Court held that a claim could be dismissed for want of federal jurisdiction only if it were "so insubstantial, implausible, foreclosed by prior decisions of this Court or otherwise completely devoid of merit as not to involve a federal controversy within the jurisdiction of the District Court, whatever may be the ultimate resolution of the federal issues on the merits." Id. at 543. With due regard, however, for the strictness of this standard, I conclude that each of the plaintiffs' constitutional claims is insubstantial.



A. Equal Protection

Their first argument is grounded upon the equal protection clause of the Fourteenth Amendment. They contend that the defendants' action in conducting interviews at only a limited number of locations in the state has invidiously discriminated against those who live substantial distances from those few towns.<sup>7/</sup> This argument is foreclosed by two distinct lines of Supreme Court opinions.

First, on numerous occasions the Court has held that "[t]erritorial uniformity is not a constitutional requisite." Salsburg v. Maryland, 346 U.S. 545, 552 (1954); McGowan v. Maryland, 366 U.S. 420 (1961); Missouri v. Lewis, 101 U.S. 22 (1879). See United States ex rel. Buonoraba v. Commissioner of Correction, 316 F. Supp. 556, 564-565 (S.D. N.Y. 1970); Contractors Ass'n. of Eastern Pa. v. Secretary of Labor, 311 F. Supp. 1002, 1010 (E.D. Pa. 1970), aff'd 442 F.2d 159 (3d Cir.), cert. denied 404 U.S. 854 (1971). Indeed, in Missouri v. Lewis, supra, the Court upheld as constitutional a Missouri statute and state constitutional provision which established

<sup>7/</sup>

It was established at the hearing that the defendants have adopted an informal rule that in cases in which a welfare recipient must travel more than 25 miles (as measured by the most direct road connection) one way to the nearest district office, the Welfare Department will arrange for the interview to be conducted in the town in which the recipient lives. Between the dates of June 4 and June 19, this was done in a total of 64 out of the 3,818 interviews that were conducted. Thus, the defendants' interview requirement only has an adverse impact upon persons who live less than 25 miles from a district welfare office.

different appellate procedures for different parts of the state. In so holding, the Court observed:

"Where part of a State is thickly settled, and another part has but few inhabitants, it may be desirable to have different systems of judicature for the two portions,--trial by jury in one, for example, and not in the other. Large cities may require a multiplication of courts and a peculiar arrangement of jurisdictions. It would be an unfortunate restriction of the powers of the State government if it could not, in its discretion, provide for these various exigencies." Id. at 32.

Similarly, the state is free, as here, to establish its offices in those parts of the state where there are the greatest demands for its services. There can be no claim of unconstitutional treatment merely because the state has chosen to distinguish among its residents on the basis of geographical considerations.

Alternately, the plaintiffs focus not only upon the territorial discrimination per se, but the financial hardship which that discrimination imposes upon those who live considerable distances away from the towns in which recertification interviews are conducted because they must travel to those towns for interviews. In effect they argue that this neutral interview requirement is unconstitutional because it imposes a greater financial hardship upon some welfare recipients than upon others.

This argument is foreclosed by the Supreme Court's opinions in Ortwein v. Schwab, 410 U.S. 656 (1973) and United States v. Kras, 409 U.S. 434 (1973). In Kras the Court held there was no violation of equal protection in conditioning a discharge in bankruptcy upon the payment of a \$50 filing fee. In Ortwein the Court arrived at a similar conclusion with



respect to a \$25 filing fee required of persons seeking review of adverse welfare decisions in the state's appellate courts despite the argument that this was a discrimination against the poor. The Court noted in both cases that in the area of economic and social welfare legislation, a state need only advance a rational justification for disparate treatment of its citizens. In both cases it found such a rational justification for the imposition of a small filing fee in the goal of offsetting the expenses of maintaining a court system for the benefit of its citizens. Thus, despite indications to the contrary in several opinions in this Circuit, City of New York v. Richardson, 473 F.2d 923, 932 (2d Cir. 1973); Henry v. White, 359 F. Supp. 969 (D. Conn. 1973), it follows that the unwillingness of a state to increase the costs of providing services to its citizens is a legitimate, rational purpose which can justify discrimination resulting from state action in the area of social welfare legislation where no fundamental interests are involved.<sup>8/</sup>

These cases are conclusive authority against this aspect of the plaintiffs' equal protection argument. The \$25 filing fee involved in Ortwein certainly represented a greater barrier

<sup>8/</sup>

Of course, a state cannot invoke this justification while acting in an arbitrary or capricious manner. Thus, serious questions would be raised if all of the district offices were located in one corner of the state, rather than distributed throughout the heavily populated areas. In such a case, the policy might be held arbitrary and capricious even in the face of a contention that the state's goal was the minimization of administrative costs.

to the welfare applicant's ultimate ability to obtain assistance than does the interview requirement in the instant case. Yet even in Ortwein, the Court recognized as a rational justification for the discriminatory impact involved the interest of the state in minimizing the costs of operating its courts. A fortiori the state is free to establish welfare offices in only a limited number of locations in order to minimize the cost of administering its welfare program. The state's action "was so patently rational as to require no meaningful consideration." Hagans v. Lavine, 415 U.S. at 541. See Hill v. State of Michigan, 488 F.2d 609 (6th Cir. 1973); see also Ajello v. Schaffer, 349 F. Supp. 1168, 1174 (D.Conn. 1972); Russo v. Shapiro, 309 F. Supp. 385, 392 (D. Conn. 1969).

The conclusion that plaintiffs' claim is insubstantial is dictated not only by the decisions discussed above, but also by the inherently "implausible" quality of their argument. The logical consequences of that argument are extreme and uncontrollable. While it is true that the defendants have indirectly imposed a hardship upon some citizens which others do not have to bear to the same degree, it is also apparent that the state rarely takes any action without having an impact at least as great as that involved here. For example, a telephone call to the governor's office is considerably more expensive for the citizens of Stamford than for those residing in Hartford; yet the state may be charged with having created the disparity by locating the state capital in Hartford. Similarly, if a state cannot decide to restrict the number of towns in which welfare interviews are conducted,



it would also be clearly barred from making the same decision with regard to the location of its courts. By holding court in only a limited number of locations in the state, under the plaintiffs' theory, the state would be invidiously discriminating against those who must incur expenses in traveling to the courthouse to present their claims. If that were so, the state would either have to institute a circuit riding system or reimburse all individuals for travel expenses.

The absurdity of this position is apparent. Indeed, in Ross v. Moffitt, 42 U.S.L.W. 4941, 4943 (June 18, 1974), the Supreme Court stated in an analogous context:

"Despite the tendency of all rights 'to declare themselves absolute to their logical extreme,' there are obviously limits beyond which the equal protection analysis may not be pressed without doing violence to principles recognized in other decisions of this Court. The Fourteenth Amendment 'does not require absolute equality or precisely equal advantages,' San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 24 (1973), nor does it require the State to 'equalize economic conditions.' Griffin v. Illinois [351 U.S. 12, 23 (1956)] (Frankfurter, J., concurring)." (Footnote omitted.)

It would be easy to spin out examples of other major structural governmental changes which would be mandated if the principle for which the plaintiffs argue were adopted. However, it is unnecessary to do so; the frivolousness of the claim is patent. When the state acts neutrally in establishing governmental offices in only a limited number of locations, there is no equal protection violation merely because some citizens must travel further distances than others to reach those offices. See Dublino v. New York State Department of Social Services, 348 F. Supp. 290, 298 (W.D. N.Y. 1972); rev'd

on other grounds 413 U.S. 405 (1973).

B. Irrebuttable Presumption

The plaintiffs' second constitutional argument is even less substantial than the first. They assert that the state has violated their rights to due process by irrebuttably presuming that the flat grant award which plaintiffs' receive under the state's AFDC program includes components of need that would allow the plaintiffs to pay the transportation and child care expenses incurred by them in complying with the recertification policy.

In support of this argument they cite the Supreme Court's recent rulings in this area. United States Department of Agriculture v. Murry, 413 U.S. 508 (1973); Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974); Vlandis v. Kline, 412 U.S. 441 (1973); Stanley v. Illinois, 405 U.S. 645 (1972). However, none of these cases are apposite to the instant case. Each involves a situation wherein the plaintiffs were held to have a right to demonstrate that they did not have the characteristics necessary to include them within a class of persons receiving disfavored treatment. For example, in Vlandis the state presumed that students attending a state college who had originally come from outside the state could never become residents of the state and thus qualify for reduced tuition rates. The Court held that such students had a right to prove that they had become bona fide residents. Similarly, in LaFleur the Court held that pregnant teachers could not automatically be required to take a leave of absence after the fourth or fifth month of their term, but rather had



the right to prove that they were physically capable of continuing to teach.

In this case, however, the defendants have not sought to include the plaintiffs in a disfavored category without providing them the opportunity to challenge that inclusion. In fact, it is apparent that the defendants have created no category and have made no presumptions regarding plaintiffs or anyone else. They have merely established an interview requirement that applies to all welfare beneficiaries. They do not presume that the AFDC flat grant award makes provision for payment of the attendant travel and child care expenses. They have merely decided not to provide assistance to cover that element of expense, a decision which they have the indisputable discretion to make. King v. Smith, 392 U.S. 309 (1968); Rosado v. Wyman, 397 U.S. 397 (1970).

In couching the interview requirement in terms of an irrebuttable presumption, the plaintiffs have made a transparent attempt to cloak an insubstantial equal protection argument in due process garb. In light of the Supreme Court's recent invocation of the "irrebuttable presumption" doctrine, it is appealing to litigants to attempt to frame their claims within this doctrinal rubric. However, as this case demonstrates, not every governmental action involves a conclusive presumption proscribed by this emerging doctrine.

#### C. Procedural Due Process

Finally, citing Goldberg v. Kelly, 397 U.S. 254 (1970) the plaintiffs argue that they are entitled to a meaningful due process hearing before their welfare benefits are termi-

nated for failure to appear at their interviews. They concede that under emergency welfare regulations §§ 17-2-31(d)(2), 17-2-33 (published at 36 Conn. L.J., Oct. 22, 1974 at 18-19) they are entitled to an evidentiary hearing at the district offices before termination of benefits. They complain that such hearings are meaningless as they would be unable to attend them for the same reasons that would prevent their attendance at the recertification interviews. This somewhat novel argument is, of course, dependent upon a finding that it is unreasonable to require the plaintiffs to report to the district offices in the first instance. As such a requirement is patently not unreasonable, this argument is also insubstantial for the purposes of federal jurisdiction.

In the absence of any non-insubstantial constitutional claim, this Court lacks the jurisdiction to consider the plaintiffs' pendent statutory claims. In addition, it follows that a three-judge court need not be convened under 28 U.S.C. § 2281 (1970) to consider the plaintiffs' claims. The standards for convening a three-judge panel are the same as those articulated in Hagans v. Lavine, supra. See Goosby v. Osser, 409 U.S. 512 (1973).

Accordingly, this action is dismissed for lack of jurisdiction.

SO ORDERED.

Dated at Hartford, Connecticut, this 19th day of November, 1974.

M. Joseph Blumenfeld  
United States District Judge



UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

\* \* \* \* \*  
LEONARD ANDREWS, ET AL \*  
\*  
vs. \* CIVIL ACTION NO. H-74-190  
\*  
NICHOLAS NORTON, Individually \*  
and in his official capacity \*  
as Commissioner of the State \*  
of Connecticut Welfare \*  
Department, ET AL \*  
\*  
\* \* \* \* \*

JUDGMENT

This cause having come on for consideration by the Court by the Honorable M. Joseph Blumenfeld, United States District Judge, and the Court having filed its Memorandum of Decision on November 19, 1974, directed to the Plaintiffs' motions seeking certification of a class, the convening of a three-judge court and a preliminary injunction;

And the Court, after a hearing on the motions, dismissed the action for lacking jurisdiction to consider the Plaintiffs' pendent statutory claims, stating that it follows that a three-judge court need not be convened under 28 U.S.C. §2281 (1970) to consider the Plaintiffs' claims;

It is accordingly ORDERED and ADJUDGED that Plaintiffs' case be and is hereby dismissed.

Dated at Hartford, Connecticut, this 29th day of November, 1974.

SYLVESTER A. MARKOWSKI  
Clerk, United States District Court

By: Deputy-in-Charge

TRANSCRIPT OF THE HEARING ON MOTION FOR  
PRELIMINARY INJUNCTION (June 24, 1970)

\* \* \*

Pp. 3-4

A The Director of the Enfield Neighborhood Center, who is Mrs. Dorothy Allen, Director of Social Services for the Town of Enfield, offered verbally to Mr. Norton at one of our inter-agency meetings one of our offices to take applications an to do redetermination. This was more than six months ago.

Q Was there ever any response by the Commissioner or any of his associates on that offer?

A He stated at that time that he didn't have enough staff, but that he would look into it. And we've heard nothing since.

\* \* \*

Q And you're aware of the transportation difficulties that they would incur if they had to travel to the Hartford and Manchester office?

A Yes. Ours is --

MR. MacGREGOR: I would object, because it must be based on hearsay.

THE COURT: Overruled.

\* \* \*

P. 7

Q I'm not asking you that.



Do you know, as a matter of fact, that the only people they interview up in Enfield are non-public assistance food stamp applicants?

A Yes.

\* \* \*

P. 8

Did you know, in fact, that from Enfield to Hartford the train goes at 7:12 a.m., 9:17 a.m. and 11:12 a.m. in the morning to Hartford?

\* \* \*

P. 9

A Yes, the train leaves at 7:40 and 9:50 a.m..

\* \* \*

Q Do you know that the bus service from Hartford to Manchester is on an hourly basis?

\* \* \*

A Oh. Yes, there is a bus from Hartford to Manchester.

\* \* \*

P. 10

Q I realize that. But, as a matter of fact, she was redetermined on June 14th, isn't that correct?

A Yes, she was.

\* \* \*

P. 14

Q Is one of the problems for the state in a redetermination of eligibility that this redetermination, when it's done, in order to be efficient doesn't just include a worker going out to redetermine eligibility, isn't this a work flow system that should also include the clerks to handle the paperwork?

A It's a team approach and it involves several aspects that is not specific to one person. One person does the interviewing. However, all other matters concerning it -- it's a team effect for efficient operation.

Q So in order to do this efficiently and have it doen properly at once, after the redetermination is done do the clerks normally immediately process the file?

A Yes, they do.

Q And if you had to go out to several towns would there be a great difficulty in having the clerical backup staff go out with regular personnel?

\* \* \*

P. 16

Q Now, if you have approximately 20 percent no-shows and you had workers up in a town office, would you be able to give them other work to do while they were waiting?

A No, we would not.

Q If they're in the office, can you raise the amount of your staff if necessary or send a person that is not working back to their own job?

A Right. And if someone should happen to come in



they could also be filled in too, so that it's much more efficient use of staff.

\* \* \*

P. 17

Q Now, to get to these towns I would assume the workers would also need transportation, is that right?

A That's right.

Q State employees are not required to use their own cars, are they?

A No, they are not.

\* \* \*

P. 18

Q So, therefore, normally these workers would have to use state cars, is that right?

A That's right.

Q Now, when the state leases or buys state cars for the Welfare Department were they normally bought in order to provide cars for Income Maintenance workers, or were they for the Social Services?

\* \* \*

Pp. 21-23

Q Now, with these cars being used by social workers are there cars available for Income Maintenance people to go out to a great many towns to do this work?

A The basis for the ratio of cars is not based on any need in Income Maintenance.

Q Now, when a person gets a state car they have to pick it up after 8:30, is that right?

A Right.

Q And then they have to drive to the town?

A That's right.

Q Do they have to have the car back at any certain time?

A Four-thirty.

Q And that has to be right back in the yard, is that right?

A Yes.

Q So it would follow that if they go out into the towns, that the workers then have less time to spend processing the files, is that right?

A That's right.

Q Now, when this redetermination is done is it practically and quite necessary that the worker have the file?

A Yes, it is.

Q And the files are in the office, is that right, and available?

A Yes, they are.

Q In fact, are the workers supposed to look at these files during the interview or shortly before the interview?

A Yes. The way the system is set up, ten minutes is allowed for them to look at it. If problems arise, they consult the records.

Q Is there any reason why files shouldn't be out of



the office?

A Yes, there are a lot of reasons.

Q Can you give me one or two?

A The single most important: confidentiality.

Q What do you mean; if the file is lost?

A Lost or --

Q How about do other people use these files  
constantly?

A Yes, they do. Other divisions.

Q So if the worker had the file up in Enfield and  
a support unit or resource unit needed that file, it would  
not be available, right?

\* \* \*

Pp. 24-25

Q How many told you that they needed to be -- they  
wanted a rescheduling because of transporration?

A One. And the person came in the next day and  
had it completed.

THE COURT: This is out of how many?

THE WITNESS: Three thousand eight hundred  
eighteen.

\* \* \*

Q And was his claim that there was no bus service  
from Willimantic?

A Yes.

Q And did you check and find out there was bus  
service on Friday?

A Yes.

Q And did the District Director in Norwich then notify Mr. Andrews that he could come in on that day in which there was a bus?

A Yes. And it has been rescheduled for that day.

\* \* \*

Pp. 26-27

Q And is there a bus that goes from Norwalk to Bridgeport?

A Yes.

Q And this is an hourly bus?

A Yes.

Q And does this bus also go from Bridgeport back to Norwalk?

A Yes.

Q On an hourly basis?

A Yes.

Q And I assume because the town of Westport is between Norwalk and Bridgeport, that it must go through Westport?

A Yes, it does.

Q Is that right?

A Yes, it does.

Q Is there also a train that goes on a fairly regular basis --

A Yes

Q -- between Norwalk and Bridgeport?

A Yes.



Q And the cost of the round trip, if I'm correct, is that \$3.10?

THE COURT: How much?

MR. MacGREGOR: Three dollars and ten cents.

\* \* \*

Q Now, in Willimantic, as of July 1st is the coach line there going to run on a daily basis?

A Yes, it is.

\* \* \*

P.32

THE COURT: How many on the team?

THE WITNESS: There are an Assignment Supervisor, two clerks -- let's see. Depending upon the size of the office, there are two clerks, there is an Assignment Supervisor, there is the worker; so there are four people - plus a file clerk would be five, plus -- okay; five.

\* \* \*

Q This outreach where the 64 people that you go to the towns, I assume from the fact there's only 64 that these are towns like Danielson?

A Yes.

Q Small towns?

A Yes.

Q Is it more expensive and less efficient to do it this way?

A Yes, it is.

\* \* \*

P. 44

Q Mr. Andrews, didn't the Norwich Welfare Department reshedule you for June 28th, which is a Friday, so you could take the Blue Line down?

A Yes, they did.

Q All right. And that was in the afternoon, isn't that right?

A Yes sir.

Q And school is out on the 28th of June, isn't that correct?

A Yes sir.

Q So your children are available to babysit, aren't they?

A Well, I have to leave them with a sixteen year old; my sixteen year old daughter.